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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,883	10/21/2003	James Alan Woodward	200305024-2	3885

7590 05/18/2004

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

NAMAZI, MEHDI

ART UNIT	PAPER NUMBER
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2188

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/689,883

Applicant(s)

WOODWARD, JAMES ALAN

Examiner

Mehdi Namazi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6,8-11,13-15,26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6,8-11,13-15,26 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/21/2003</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This office action is in response to preliminary amendment filed October 21, 2003.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 6, 8-11, 13-15, and 26-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S.

Patent No. 6,647,468.

A question of patentability is raised with respect to representative claims 6, 8-11, 13-15, and 26-27 of the instant application under the judicially doctrine of "obviousness-type" double patenting with respect to U.S. Patent No. 6,647,468.

More specifically, OPQR maintains that in view of the "obviousness-type" double patenting rationale enunciated in *Georgia Pacific Corp v United States Gypsum Co.*, 52 USPQ2d 1590, U.S. Court of Appeals Federal Circuit 1999, representative application

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claim # merely defines an obvious variation of the invention claimed in US Patent 6,647,468.

Initially it should be noted that the present application is a continuation application of parent patent 6,647,468, having the same inventive entity. The Assignee in both applications is Hewlett-Packard Development Company, L.P. The entire disclosures of the instant application and patent number 6,647,468 are identical.

A claims 6, and 7 of the patent are compared to claims 6, and 11 of instant application in the table below.

Limitations in instant application claims 6, and 11	Limitations in patented claims 6, and 7
<p>A method for managing memory synchronization in a computer system having multiple devices sharing memory resources, comprising:</p> <p>Determining whether a memory element within the memory resource has changed;</p> <p>Determining whether a memory synchronization event has occurred synchronizing the multiple devices;</p>	<p>A method for managing memory synchronization in a computer system having multiple devices sharing memory resources, comprising the step of:</p> <p>Determining whether a memory element within the memory resource has changed;</p> <p>Determining whether a memory synchronization event has occurred synchronizing the multiple devices;</p>

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Synchronizing the multiple devices if no synchronization event has occurred; and	Synchronizing the multiple devices if no synchronization event has occurred; and Determining whether the memory resource is to be shared with more than one of the multiple devices; and
Preventing synchronizing of the memory resource with the multiple devices if the memory resource is not to be shared.	Preventing synchronizing of the memory resource with the multiple devices if the memory resource is not to be shared.

Claims 6, and 11 of the instant application is anticipated by patent claims 6, and 7 in those claims 6, and 7 of the patent contains all the limitation of claims 6, and 11 of instant application. Claims 6, and 11 of the instant application therefore are not patently distinct from the earlier patent claim and as such are unpatentable for obvious-type double patenting.

Under the rules of GATT/NAFTA for implementation of the 20 years term effective June 8, 1995, the term of the aforementioned U.S. patent ends the same date as the instant application. Therefore, patent protection rights due application from U.S. Patent No. 6,539,454 cannot be timewise extended by issuance of the instant application even without a properly drafted terminal disclaimer in this case. However in

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lieu of the cancellation of the claims or abandonment of the instant application, applicants must overcome this question of patentability by submission of a paper that at least addresses the "enforceability/common ownership" provision of a terminal disclaimer referred to in 37 CFR 1.321 (C) (3).

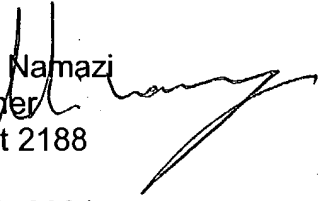
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehdi Namazi whose telephone number is 703-306-2758. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on 703-306-2903. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mehdi Namazi
Examiner
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May 16, 2004

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